

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

**TAMMY WILLIAMS, EARL RUSSELL and
CHERYL HAMBRICK**

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 2:05CV83-P-S

**JAMES RILEY, Individually and in his
Official capacity as Sheriff of DeSoto County,
Mississippi, STEVE ATKINSON and LARRY
GATLIN, Individually and in their Official
capacities as deputy sheriffs and jail administrators
of DeSoto County, Mississippi**

DEFENDANTS

ORDER

This cause is before the Court on the defendants' Motion for Summary Judgment [128]. The Court, having reviewed the motion, the response, the briefs of the parties, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

That the plaintiffs have demonstrated a triable issue of fact with regard to their claims against the defendants. Accordingly, summary judgment is inappropriate. In ruling on a motion for summary judgment, the court is not to make credibility determinations, weigh evidence, or draw from the facts legitimate inferences for the movant. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). Rather, the evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in its favor. Id. at 255. The United States Supreme Court has granted the trial court some degree of flexibility when confronted with a summary judgment motion: "Neither do we suggest . . . that the trial court may not deny summary judgment in a case where there is reason to believe that the better course would be to proceed to a full trial." Id.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the defendants' [128] Motion for Summary Judgment is not well-taken and should be, and hereby is, DENIED.

SO ORDERED, this the 25th day of August, 2009.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE